

1 Jennifer Chang Newell*
2 Cecilia D. Wang*
3 AMERICAN CIVIL LIBERTIES
4 UNION FOUNDATION
5 IMMIGRANTS' RIGHTS PROJECT
6 39 Drumm Street
7 San Francisco, CA 94111
8 T: (415) 343-0770
9 F: (415) 395-0950
10 *jnewell@aclu.org*
11 *cwang@aclu.org*

12 Kathleen E. Brody
13 ACLU FOUNDATION OF ARIZONA
14 3707 North 7th Street, Suite 235
15 Phoenix, AZ 85014
16 T: (602) 650-1854
17 F: (602) 650-1376
18 *kbrody@acluaz.org*

19 Linton Joaquin*
20 Karen C. Tumlin*
21 Shiu-Ming Cheer*
22 Nora A. Preciado*
23 Nicholás Espíritu*
24 NATIONAL IMMIGRATION LAW
25 CENTER
26 3435 Wilshire Boulevard, Suite 2850
27 Los Angeles, CA 90010
28 T: (213) 639-3900
29 F: (213) 639-3911
30 *joaquin@nilc.org*
31 *tumlin@nilc.org*
32 *cheer@nilc.org*
33 *preciado@nilc.org*
34 *espiritu@nilc.org*

35 Andrés Holguin-Flores**
36 MEXICAN AMERICAN LEGAL
37 DEFENSE AND EDUCATIONAL FUND
38 634 S. Spring Street, 11th Floor
39 Los Angeles, CA 90014
40 T: (213) 629-2512
41 F: (213) 629-0266
42 *aholguin-flores@maldef.org*

43 *Attorneys for Plaintiffs*
44 *Additional Co-Counsel on Subsequent Pages*

45
46 **IN THE UNITED STATES DISTRICT COURT**
47 **FOR THE DISTRICT OF ARIZONA**

48 Arizona Dream Act Coalition, et al.,
49 Plaintiffs,
50 vs.
51 Janice K. Brewer, et al.,
52 Defendants.

53 CASE NO. 02:12-cv-02546-DGC-PHX
54
55 **SUPPLEMENTAL DECLARATION**
56 **OF KATHLEEN E. BRODY IN**
57 **SUPPORT OF PLAINTIFFS'**
58 **MOTION FOR AWARD OF**
59 **ATTORNEYS' FEES AND NON-**
60 **TAXABLE EXPENSES**

1 *Additional Co-Counsel*

2 Tanya Broder*
3 NATIONAL IMMIGRATION LAW
4 CENTER
5 2030 Addison Street, Suite 310
6 Berkeley, CA 94704
7 T: (510) 663-8282
8 *broder@nilc.org*

9
10 Lee Gelernt*
11 Michael Tan*
12 AMERICAN CIVIL LIBERTIES UNION
13 FOUNDATION
14 IMMIGRANTS' RIGHTS PROJECT
15 125 Broad St., 18th Floor
16 New York, NY 10004
17 T: (212) 549-2660
18 F: (212) 549-2654
19 *lgelernt@aclu.org*
20 *mtan@aclu.org*

21 **Pro hac vice*
22 ** *Pro hac vice forthcoming*

23 *Attorneys for Plaintiffs*

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1 I, Kathleen E. Brody, declare as follows:

2 1. I am an attorney admitted to practice in this Court and represent Plaintiffs
3 in this matter. I make the following statements based on my personal knowledge, except
4 where otherwise indicated, and I am prepared to testify to the matters set forth.

5 2. I make this declaration in support of Plaintiffs' Motion for Award of
6 Attorneys' Fees and Related Non-Taxable Expenses, as a supplement to the declaration
7 I previously prepared in support of the same motion. *See* Doc. 336-24.

8 3. I reviewed Defendants' Response to Plaintiffs' Memorandum in Support
9 of Motion for Award of Attorneys' Fees and Related Non-Taxable Expenses, Doc. 337,
10 and the exhibits thereto. Docs. 338 through 338-9.

11 4. After reviewing Defendants' Response, I have exercised additional billing
12 discretion to make further reductions to the amount that the ACLU of Arizona is claiming
13 for attorneys' fees in three categories, as described below.

14 5. I have exercised billing judgment so that the ACLU of Arizona is claiming
15 fees for no more than one of its attorneys at each deposition in this case. *See* Doc. 337 at
16 9 (Defendants' Response arguing about multiple attorneys at events). This exercise of
17 discretion removes one time entry for James Duff Lyall (JDF) on February 6, 2013, for
18 2 hours and 36 minutes ("Deposition Dulce Matuz"), and a **reduction of \$901.00** from
19 the amount claimed by the ACLU of Arizona. *See* Doc. 336-24 at 28.

20 6. I have also exercised billing judgment so that the ACLU of Arizona is not
21 claiming attorneys' fees for time spent reviewing time entries to prepare exhibits for
22 Plaintiffs' Motion. *See* Doc. 337 at 13 (Defendants' Response arguing that attorney time
23 spent reviewing time entries is not compensable). This exercise of discretion removes
24 one time entry for myself, Kathleen E. Brody (KEB), on June 6, 2018, for 30 minutes
25 ("Review time entries for exercise of billing judgment and expenses in preparation for
26 fee motion."), and a **reduction of \$175.00** from the amount claimed by the ACLU of
27 Arizona. *See* Doc. 336-24 at 30.

1 7. I have also exercised billing judgment so that the ACLU of Arizona is not
 2 claiming attorneys' fees for certain time entries that Defendants' Response argues reflect
 3 non-compensable clerical or administrative tasks. *See* Doc. 337 at 11-12. I have closely
 4 reviewed each of the time entries for the ACLU of Arizona that Defendants identify as
 5 non-compensable administrative tasks. Doc. 338-5 at 1-32 (Exhibit 10). In the exercise
 6 of discretion, the ACLU of Arizona will not claim fees for 60.2 hours of Gloria A.
 7 Torres's (GAT) time for a **reduction of \$11,137.00** from the amount claimed by the
 8 ACLU of Arizona.

9 8. A number of the ACLU of Arizona's time entries that Defendants identify
 10 as non-compensable administrative tasks are not, in fact, administrative or clerical. *See*
 11 Doc. 338-5 at 1-32 (Exhibit 10). Rather, those time entries reflect commonly billed and
 12 compensable attorney and paralegal activities that require skill, experience, and
 13 judgment. Specifically, the ACLU of Arizona should be compensated for the following
 14 time entries for Gloria A. Torres (GAT), totaling 46.2 hours:

18	19	20	Description Prepare: FTP site for co-counsel to retrieve ADOT's response to public records request; email to Attorney Lyall re same.
1/8/2013	2.8		
18	19	20	Description Review: and organization of client documents: Alan Salinas (ADAC-00001 thru ADAC-00329) and Cesar Valdes (ADAC-00330 thru ADAC-00356); <u>email_1</u> to Attorney Lyall re same.
1/23/2013	2.3		
21	22	23	Description Review: and organization of client documents : Dulce Matuz (ADAC-01297 thru ADAC-01594); email to Attorney re same.
1/24/2013	2.8		
24	25	26	Description Review: and organization of client documents retrieving from Google Docs: Maria Castro (ADAC-00357 thru ADAC-00666); email to Attorney Lyall re same.
1/24/2013	3.4		
27	28	29	Description Review: and organization of client documents: Reyna Montoya (ADAC-00667 thru ADAC-01296); email to Attorney Lyall re same.
1/25/2013	3.7		

1	1/26/2013	3.7	Description Review: and organization of ADAC client documents from Dulce Matuz; email to Attorney Lyall re same.
2	1/29/2013	1.8	Description Review: and organization of first set of production to defendants.
3	2/1/2013	3.8	Description Prepare: deposition binder for Attorney Flood in preparation of Dulce Matuz's deposition
4			Description Review: email from Attorneys Flood and Lyall re ACLU-AZ document review; prepare hard copies of same for review. ADOT0000479-ADOT0000529 and BREWER000001- BREWER000259
5	2/4/2013	1.8	
6			
7	2/14/2013	2.7	Description Review: and organization of client documents: ADAC supplemental documents(02.13.13); email to Attorneys Flood and Lyall re same.
8			
9	2/20/2013	0.9	Description Insert : <u>confidential</u> watermark designations for Jesus Castro' deposition; email to Attorney Lyall re same.
10			
11	2/20/2013	0.9	Description Prepare: confidential watermark for deposition of Dule Matuz (ADAC 30b6 deposition); email to Attorneys Flood, Lyall and Orion Danjuma (IRP) re same.
12			
13	2/27/2013	1.3	Description Review: email from Paralegal Pratt (Polsinelli) requesting deposition transcripts, exhibits and certification pages for Matuz, Jefferies, Perez-Gallegos, Martinez, Cooper, Jacobo, Castro-Martinez and Lopez; provide same via zip file.
14			
15	10/23/2013	2.3	Description Case : filing and organization regarding discovery; file review regarding Defendants' privilege logs; forward same to Paralegal Sheila Miller (NILC).
16			
17	1/22/2014	3.4	Description Review: and organization of discovery; organization of documents provided by client ADAC with regard to discovery requests.
18			
19	2/11/2014	2.3	Description Review: and organize depositions; update discovery file folder.
20			
21	2/25/2014	1.6	Description Prepare: Notices of Deposition for Charles Saillant, John Halikowski, Kevin Biesty, Page Gonzales and Thomas Adkins; Review ECF filings re same (Dkt. 227-231); docket; distribute to legal group; file same.
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2/25/2014	2.9	Description Review: Defendants' Fifth Supplemental Disclosure Statements and documents produced therein; download same to network file folder and upload same to FTP link for retrieval by co-counsel.
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4/1/2014 1.8 Description Numerous : email from and to Attorney Polansky (IRP) regarding discovery including recent depositions; provide her with same.

9. In addition, the ACLU of Arizona should be compensated for the following time entry for James Duff Lyall (JDL), which reflects communication between an attorney and a client and was wrongly identified by Defendants as administrative, totaling 0.4 hours:

2/6/2013 0.4 Description Client call re depo resched

10. With respect to Defendants' argument that the ACLU of Arizona is claiming expenses for which no receipts were submitted, Doc. 337 at 17; Doc. 338-9 (Exhibit 22), the six ACLU of Arizona items identified by Defendants are further explained below.

11. Three of the six items reflect reimbursements from co-counsel organizations for part of costs incurred in this litigation. They are negative numbers, meaning that the ACLU of Arizona has reduced its claimed expenses by the amounts indicated because co-counsel have already reimbursed the ACLU of Arizona for part of the costs:

2/7/2013	ACLU Foundation Nat'l	fee for AZ DACA Driver's License Case (Deposit - 11816)	-\$125.00
0/31/2013	ACLU Foundation Nat'l	25% Deposition Cost - Kevin Biesty (ADAC v Brewer) reimbursement (Deposit -68273)	-\$212.06
6/17/2014	National Immigration	Reimbursement for charges re: ADAC v. Brewer (Deposit - 15626)	-\$125.00

1 12. Likewise, one of the six items reflects a reimbursement from a vendor
 2 based on the ACLU of Arizona's agreement with that vendor for a discounted rate. It is
 3 a negative number, meaning that the ACLU of Arizona has reduced its claimed expenses
 4 by the amount indicated because the vendor reimbursed the ACLU of Arizona for part
 5 of the cost:

6	4/7/2014	D. Pochoda - credit for ADAC v. Brewer delivery (Credit Card Charge)	-\$3.62
7	FedEx Office		

8 13. Two of the six items reflect parking charges for ACLU of Arizona
 9 employees at court hearings in this case. In the exercise of discretion, the ACLU of
 10 Arizona will reduce its claimed expenses to omit these items, for a total **reduction of**
 11 **\$32.00**:

12	3/22/2013	D. Juarez - ADAC vs. Brewer hearing (Credit Card Charge)	\$16.00
13	Public Works		
14			
15	6/21/2013	A. Soler - Parking - ADAC vs. Brewer hearing (Credit Card Charge)	\$16.00
16	Public Works		

17 14. In addition, an ACLU of Arizona attorney (myself, Kathleen E. Brody)
 18 completed compensable work in connection with Plaintiffs' Motion and the Reply that
 19 this declaration accompanies. That compensable time (11.9 hours at \$350 per hour) totals
 20 an **additional \$4,165.00** and is summarized below:

21	7/5/2018	0.8 Review draft attorneys' fees application.
22	7/5/2018	1.5 Draft Brody declaration in support of attorneys' fees motion.
		Revise Brody and Pochoda declarations in support of attorneys'
23	7/6/2018	0.7 fees motion.
24	8/16/2018	1.2 Analyze defendants' response to attorneys' fees motion with particular attention to ACLU of Arizona issues
25		Draft portions of reply on fees motion specific to ACLU of
26	8/24/2018	2.5 Arizona, including analyzing and preparing chart regarding alleged
27	8/28/2018	0.4 Review and revise draft reply in support of fees motion.
28	8/28/2018	1.0 Team call re reply brief and supporting declarations.

1 8/28/2018 1.8 Prepare supplemental declaration in support of fees motion.
2 8/29/2018 0.5 Revise supplemental declaration in support of fees motion.
3 Further revise and finalize supplemental declaration in support
4 8/30/2018 1.5 of fees motion.

5 15. Taking into account the reductions indicated in this declaration, as well as
6 the supplemental information regarding fees incurred in connection with preparing
7 Plaintiffs' Motion and the Reply that this declaration accompanies, the total sum of
8 attorneys' fees due to the ACLU of Arizona for work in this matter is **\$71,504.00**.

9 16. Taking into account the reductions indicated in this declaration, the total
10 sum of unreimbursed expenses due to the ACLU of Arizona for this matter is **\$2,497.39**.

11 I declare under penalty of perjury under the laws of the United States and Arizona
12 that the foregoing is true and correct.

13 Executed on 31st day of August, 2018.

14 By /s/ *Kathleen E. Brody*

15 Kathleen E. Brody

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